

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Gas Company (U904 G) For Authority to Revise its Rates Effective January 1, 2005, in its Biennial Cost Allocation Proceeding.

Application 03-09-008
(Filed September 3, 2003)

In the Matter of the Application of San Diego Gas & Electric Company (U904 G) For Authority to Revise its Rates Effective January 1, 2005, in its Biennial Cost Allocation Proceeding.

Application 03-09-031
(Filed September 17, 2003)

**ADMINISTRATIVE LAW JUDGE'S RULING
SUSPENDING SCHEDULE**

1. Summary

This ruling suspends the schedule in this biennial cost allocation proceeding (BCAP) pending Commission consideration of an order to dismiss.

2. Background

The adopted schedule requires BCAP applicants to file and serve amended applications within 21 and 28 days after the date the Commission mails its decision in the gas industry restructuring (GIR) proceeding (Application (A.) 03-06-040). (See Assigned Commissioner's Ruling Granting Motion for Continuance Plus First Scoping Memo and Ruling of Assigned Commissioner dated November 17, 2003, page 13, Ordering Paragraph 2.) Amended BCAP applications are required in order to permit applicants to base their showings on the market structure adopted by the Commission in A.03-06-040, whether that be applicants' preferred case, a compliance case, or another result. This is necessary

because market structure can be reasonably foreseen to affect customer groups and important variables that influence the BCAP outcome.

The Commission adopted its GIR decision on April 1, 2004 (mailed April 5, 2004), but stayed the order pending the issuance of a decision in Phase 1 of Order Instituting Rulemaking 04-01-025 (gas industry market structure). In ordering the stay, the Commission said:

“...in response to the assertion that the regulatory market structure [implemented here] may not be consistent with the apparent direction the Commission may take in a recently issued Order Instituting Rulemaking (R.) 04-01-025 (2004 Gas OIR), we will issue a stay of this order until a decision has been issued in Phase 1 of the 2004 Gas OIR. This approach should provide an opportunity to reconcile any impacts the 2004 Gas OIR might have on a firm tradeable rights system or the market structure this decision implements...” (Decision 04-04-015 in A.03-06-040, Chapter IV, Section J; *mimeo.*, page 67.)

3. Discussion

The schedule should be suspended for two reasons. First, the market structure upon which applicants are to base amended BCAP applications is not finally resolved. It would be an inefficient use of applicants’ and parties’ time for applicants to now amend their applications and parties to review those applications based upon an adopted but stayed decision on market structure that may or may not again change.

Second, it is unreasonable to further extend the schedule. The Commission typically has 18 months to complete ratesetting proceedings. (Pub. Util. Code § 1701.5; Rule 6(e) of the Commission’s Rules of Practice and Procedure.) In particular for proceedings after January 1, 2004, the Commission may extend the 18 months by specifying a different date in the Scoping Memo approved by the Assigned Commissioner, with specific justification.

(§ 1701.5(b).) It is generally undesirable to extend the 18 months, however, absent a particularly compelling reason.

In this case, applicants must eventually amend their applications. It is more efficient for the Commission to docket the amended applications as new applications rather than to burden the existing file with outdated applications that are amended one or more times. Further, it will be clearer for parties and the Commission to determine what is and is not in the record, and focus on the relevant material, if the applications are docketed anew. Therefore, I intend to propose that the Commission adopt a decision to dismiss these two BCAP applications without prejudice. It is reasonable to suspend the schedule pending Commission consideration of an order to dismiss.

IT IS RULED that the adopted schedule is suspended pending further Ruling, or a Commission Order to Dismiss these applications.

Dated April 5, 2004, at San Francisco, California.

/s BURTON W. MATTSON

Burton W. Mattson
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail and by electronic mail this day served a true copy of the original attached Administrative Law Judge's Ruling Suspending Schedule on all parties of record in this proceeding or their attorneys of record.

Dated April 5, 2004, at San Francisco, California.

/s/ JANET V. ALVIAR

Janet V. Alviar

N O T I C E

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